IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

WRIT PETITION Nos: 16088, 18947 of 1994

and 10721 of 1997

WRIT PETITION Nos: 16088 of 1994

Between:

Chengalrayappa S/o. Ramappa
R/o. Old Pet, Palamaner, Chittoor District.

..... PETITIONER

AND

1 The Joint Collector, Chittoor.
2 The Mandal Revenue Officer, Palamaner, Chittoor District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction in the nature of writ of mandamus declaring the action of the respondents resorting to dispossess the petitioner from the land of an extent of Ac.0-83 cents situated in
S.No. 726/2, Palamaner, Chittoor District, without cancelling the patta already granted in favour of the petitioner in the year 1975 and without affording an opportunity to the petitioner in this regard, as illegal, arbitrary and unconstitutional and violative of principles of natural justice.

Counsel for the Petitioner: MR.P.GANGAIAH NAIDU

Counsel for the Respondent Nos.1 and 2: GP FOR REVENUE

WRIT PETITION NO : 18947 of 1994

Between:

Chengalrayappa S/o. Muneppa
R/o Oldpet, Palamaner, Chittoor District.

..... PETITIONER

AND

1 The Joint Collector, Chittoor.
2 The Mandal Revenue Officer, Palamaner, Chittoor District.
3 The Regional Manager, Indian Oil Corporation, Chandralok Complex,

Secunderabad.
4 The Branch Manager, Indian Oil Corporation, Vijayawada.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction in the nature of writ of mandamus declaring the action of the respondents resorting to dispossess the petitioner from the land of an extent of Ac.0-83 cents situated in S.No. 724/2; Ac.1-52 cents in S.No. 725/2/A2; 0-81 cents in S.NO. 725/2B; and Ac.1-20 cents in S.No.725/2D-1, situated at Palamaner, Chittoor District, without cancelling the patta already granted in favour of the petitioner in the year 1975 and without affording an opportunity, as illegal, arbitrary and unconstitutional and violative of principles of natural justice.

Counsel for the Petitioner: MR.P.GANGAIAH NAIDU

Counsel for the Respondent Nos.1 & 2: GP FOR REVENUE

Counsel for the Respondents 3 & 4: Mr. Koka Raghava Rao

WRIT PETITION NO : 10721 of 1997

Between:

S.Chengalrayappa, S/o. Sri S.Muneppa
R/o Pandivaripalli Village, Kurmai Post,
Palamaner Mandal, Chittoor district.

..... PETITIONER

AND

1 The District Collector, Chittoor.
2 The Mandal Revenue Officer, Palamaner, Chittoor District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction in the nature of writ of Mandamus declaring the action of the respondents in resorting to cancel the assignment granted in favour of the petitioner in respect of Ac.4-45 of land i.e.,Ac.1-52 cents in Sy.No.725/2A/2;Ac.0-81 cents in Sy.No.725/2B Ac.0-92 cents in S.No.726 and Ac.1-20 cents in

S.No.725/2D,situate in Palamaner, Chittoor and further to assign the same in favour of the third parties, as illegal, improper, unjust and contrary to law.

Counsel for the Petitioner: MR.P.GANGAIAH NAIDU

Counsel for the Respondent Nos.1 and 2: GP FOR REVENUE

The Court made the following

COMMON ORDER:

The petitioner was assigned agricultural land admeasuring an extent of Acs.0.83 in S.No.726/2, Acs.1.52 in S.No.725/2/A2, Acs.0.81 in S.No.725/2B, Acs.1.20 in S.No.725/2D-1 of Palmaner village under D.K.T. Patta in the year 1975. Since then he has been cultivating the land by raising ground-nut crop. It is stated that the respondents issued ryotwari passbook bearing No.5228 in favour of the petitioner. While so, it seems that the respondents herein have assigned the land to an extent of Acs.0.83 of Palamaner, to Indian Oil Corporation to set up a Petrol Bunk by cancelling the patta granted to the petitioner. When the respondent tried to dispossess the petitioner from the land in question, the petitioner filed W.P.No.16088 of 1994.

This court while admitting the writ petition on 12.9.1994 passed interim order restraining the respondents from dispossessing the petitioner from the land in dispute. Thereafter, as the respondents tried to dispossess the petitioner from the entire extent, the petitioner filed two more writ petitions being W.P.Nos.18974 of 1994 and 10721 of 1997 to declare the action of the respondents in resorting to dispossess the petitioner in respect of the land to an extent of Acs.4.45 situated at Palamaner, Chittoor District, including the land in S.No.726/2 without canceling the

patta already granted and without affording any opportunity, as illegal and arbitrary.

Learned counsel for the petitioner contended that the respondents are resorting to dispossess the petitioner by cancelling the patta, with a view to assign the same to the Indian Oil Corporation, in violation of the principles of natural justice and they have no power to cancel the assignment granted in favour of the petitioner without issuing any notice and without following due process of law.

The respondents filed counter affidavit in all the writ petitions stating that the petitioner is not a resident of Palamaner Town or village and he never cultivated the land in question and that the petitioner has violated the conditions of patta issued. Hence the land assigned to the petitioner has been cancelled vide Ref.R.Dis.A4/55/2/94 dated 30-1-1994 and resumed by the Government and the land in S.No.726/2 in an extent of Acs.0.83 was proposed for construction of Petrol Bunk by Indian Oil Corporation and the same has already been handed over to IOC on 30-5-1994. The remaining land was allotted to the weaker sections of Palamaner Town for house sites, vide T.H.S.No.1 to 107/1404, dated 30-8-1994.

From, a reading of the counter affidavit, it is evident that the respondents have not followed the principles of natural justice while issuing cancellation proceedings dated 30-1-1994 as no prior notice was issued under the Act 9 of 1977. Under the above circumstances, there shall be a direction to the respondents not to dispossess the petitioner from the land to an extent of Acs.4.45 in various survey numbers. However, it is made clear that the petitioner cannot claim any right over the land already allotted to the Indian Oil Corporation. It is also made clear that this order will not preclude the respondents in passing appropriate orders after following the procedure laid down under the law.

With the above directions, these Writ Petitions are allowed. No costs.

T. Meena Kumari, J.

4th November, 2004.

Js.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Thursday the fourth day of November, Two thousand and four.

ASSISTANT REGISTRAR

To

1 The Joint Collector, Chittoor.
2 The Mandal Revenue Officer, Palamaner, Chittoor District.
3 The Regional Manager, Indian Oil Corporation, Chandralok Complex,

Secunderabad.
4 The Branch Manager, Indian Oil Corporation, Vijayawada.

5 The District Collector, Chittoor.

6 Two CCs to G.P. for Revenue, High Court Buildings, High Court of

A.P., Hyderabad. (OUT).

7 2 CD copies.